

# Notice of Allowability

Application No.

10/088,500

Examiner

Gregory R. Del Cotto

Applicant(s)

MATSUMOTO ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amend. 8/5/04.
2. ☒ The allowed claim(s) is/are 1-6, 8, 10, 11 renumbered 1-9.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

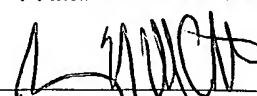
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 9/20/04.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

GREGORY DELCOTTO  
PRIMARY EXAMINER



### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard Chin on September 20, 2004.

The application has been amended as follows:

#### **The Claims:**

In claim 10, line 3, after "comprising" insert – from 10 to 60 wt.% of --.

In claim 11, line 1, after "comprises" insert – applying --.

In claim 11, line 3, before "at least" insert – from 10 to 60 wt.% of --.

**Cancel** claim 9.

### REASONS FOR ALLOWANCE

Newly submitted claim 11 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Independent claim 11 which is drawn to a method for washing a person is materially different and patentably distinct from the originally claimed invention which is drawn to a detergent composition. The originally claimed invention can be used in a materially different method such as in a process for cleaning textiles and would require a separate search due to its separate classification.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 11 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. However, as noted below, this claim has been rejoined and is allowable since it has all the limitations of the allowable product claim.

The following is an examiner's statement of reasons for allowance:

Note that, Applicant's amendment, Applicant's arguments, and the Examiner's Amendment are sufficient to place the instant claims in condition for allowance.

Claim 1 is directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claim 11, directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, is now subject to being rejoined. Claim 11 is hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Of the references of record, the most pertinent are EP 474,023 or EP 245,756. '023 teaches an emulsion-type aqueous cosmetic composition containing a mixture of oil and fat, wherein said fat is present in at least 70 wt% of said mixture, and at least 50 wt% of said fat is at least one lipid selected from the group consisting of higher fatty acids, etc.; an aqueous medium, and an emulsifying agent, said mixture of oil and fat being dispersed in said aqueous medium with said emulsifying agent. See Abstract.

'756 teaches a composition comprising a basic amino acid salt of a higher aliphatic phosphate and an alpha monoalkyl glyceryl ether. See Abstract. The amount

of phosphate added to the composition may be 0.01 to 5 wt% and the amount of ether added to the composition may be 0.1 to 20 parts by weight of the phosphate. See page 3, lines 22-40.

However, neither '023 or '756 teaches the specific amount of phosphate ester as recited by the instant claims.

None of the references of record, alone or in combination, teach or suggest a detergent composition and method of using such a composition to clean a person containing at least one phosphate ester, at least one glyceryl ether, and the other requisite components of the composition in the specific proportions as recited by the instant claims. Accordingly, since the prior art fails to teach or suggest such a composition and method of using such a composition as recited by the instant claims, the instant claims are deemed allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gregory R. Del Cotto  
Primary Examiner  
Art Unit 1751

GRD

September 20, 2004